

General Assembly

Bill No. 33

February Session, 2002

LCO No. 449

Referred to Committee on Finance, Revenue and Bonding

Introduced by:

SEN. DELUCA, 32nd Dist.

REP. WARD, 86th Dist.

AN ACT CONCERNING CERTAIN TAXES RELATED TO HEALTH CARE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. Subdivision (2) of section 12-407 of the general statutes, as
- 2 amended by section 2 of public act 01-109 and section 1 of public act
- 3 01-6 of the June special session, is repealed and the following is
- 4 substituted in lieu thereof (Effective from passage):
- 5 (2) "Sale" and "selling" mean and include: (a) Any transfer of title,
- 6 exchange or barter, conditional or otherwise, in any manner or by any
- 7 means whatsoever, of tangible personal property for a consideration;
- 8 (b) any withdrawal, except a withdrawal pursuant to a transaction in
- 9 foreign or interstate commerce, of tangible personal property from the
- 10 place where it is located for delivery to a point in this state for the
- 11 purpose of the transfer of title, exchange or barter, conditional or
- 12 otherwise, in any manner or by any means whatsoever, of the property
- 13 for a consideration; (c) the producing, fabricating, processing, printing
- 14 or imprinting of tangible personal property for a consideration for

consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing or imprinting, including, but not limited to, sign construction, photofinishing, duplicating and photocopying; (d) the furnishing and distributing of tangible personal property for a consideration by social clubs and fraternal organizations to their members or others; (e) the furnishing, preparing, or serving for a consideration of food, meals or drinks; (f) a transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price; (g) a transfer for a consideration of the title of tangible personal property which has been produced, fabricated or printed to the special order of the customer, or of any publication, including, but not limited to, sign construction, photofinishing, duplicating and photocopying; (h) a transfer for a consideration of the occupancy of any room or rooms in a hotel or lodging house for a period of thirty consecutive calendar days or less; (i) the rendering of certain services for a consideration, exclusive of such services rendered by an employee for the employer, as follows: (A) Computer and data processing services, including, but not limited to, time, programming, code writing, modification of programs, feasibility studies and installation existing implementation of software programs and systems even where such services are rendered in connection with the development, creation or production of canned or custom software or the license of custom software, and exclusive of services rendered in connection with the creation, development hosting or maintenance of all or part of a web site which is part of the graphical, hypertext portion of the Internet, commonly referred to as the World-Wide Web, (B) credit information and reporting services, (C) services by employment agencies and agencies providing personnel services, (D) private investigation, protection, patrol work, watchman and armored car services, exclusive of services of off-duty police officers and off-duty firefighters, (E) painting and lettering services, (F) photographic studio services, (G) telephone answering services, (H) stenographic services, (I) services to industrial, commercial or income-producing real property, including,

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49 but not limited to, such services as management, electrical, plumbing, 50 painting and carpentry and excluding any such services rendered in 51 the voluntary evaluation, prevention, treatment, containment or 52 removal of hazardous waste, as defined in section 22a-115, or other 53 contaminants of air, water or soil, provided income-producing 54 property shall not include property used exclusively for residential 55 purposes in which the owner resides and which contains no more than 56 three dwelling units, or a housing facility for low and moderate 57 income families and persons owned or operated by a nonprofit 58 housing organization, as defined in subsection (29) of section 12-412, 59 (J) business analysis, management, management consulting and public 60 relations services, excluding (i) any environmental consulting services, 61 and (ii) any training services provided by an institution of higher 62 education licensed or accredited by the Board of Governors of Higher 63 Education pursuant to section 10a-34, (K) services providing "piped-in" 64 music to business or professional establishments, (L) flight instruction 65 and chartering services by a certificated air carrier on an aircraft, the 66 use of which for such purposes, but for the provisions of subsection (4) 67 of section 12-410 and subsection (12) of section 12-411, would be 68 deemed a retail sale and a taxable storage or use, respectively, of such 69 aircraft by such carrier, (M) motor vehicle repair services, including 70 any type of repair, painting or replacement related to the body or any 71 of the operating parts of a motor vehicle, (N) motor vehicle parking, 72 including the provision of space, other than metered space, in a lot 73 having thirty or more spaces, excluding (i) space in a seasonal parking 74 lot provided by a person who is exempt from taxation under this 75 chapter pursuant to subsection (1), (5) or (8) of section 12-412, (ii) space 76 in a parking lot owned or leased under the terms of a lease of not less 77 than ten years' duration and operated by an employer for the exclusive 78 use of its employees, (iii) valet parking provided at any airport, (iv) 79 in municipally-operated railroad parking facilities 80 municipalities located within an area of the state designated as a 81 severe nonattainment area for ozone under the federal Clean Air Act, 82 or space in a railroad parking facility in a municipality located within

an area of the state designated as a severe nonattainment area for ozone under the federal Clean Air Act owned or operated by the state on or after April 1, 2000, (O) radio or television repair services, (P) furniture reupholstering and repair services, (Q) repair services to any electrical or electronic device, including, but not limited to, equipment used for purposes of refrigeration or air-conditioning, (R) lobbying or consulting services for purposes of representing the interests of a client in relation to the functions of any governmental entity or instrumentality, (S) services of the agent of any person in relation to the sale of any item of tangible personal property for such person, exclusive of the services of a consignee selling works of art, as defined in subsection (b) of section 12-376c, or articles of clothing or footwear intended to be worn on or about the human body other than (i) any special clothing or footwear primarily designed for athletic activity or protective use and which is not normally worn except when used for the athletic activity or protective use for which it was designed, and (ii) jewelry, handbags, luggage, umbrellas, wallets, watches and similar items carried on or about the human body but not worn on the body in the manner characteristic of clothing intended for exemption under subdivision (47) of section 12-412, under consignment, exclusive of services provided by an auctioneer, (T) locksmith services, (U) advertising or public relations services, including layout, art direction, graphic design, mechanical preparation or production supervision, not related to the development of media advertising or cooperative direct mail advertising, (V) landscaping and horticulture services, (W) window cleaning services, (X) maintenance services, (Y) janitorial services, (Z) exterminating services, (AA) swimming pool cleaning and maintenance services, (BB) renovation and repair services as set forth in this subparagraph, to other than industrial, commercial or income-producing real property: Paving of any sort, painting or staining, wallpapering, roofing, siding and exterior sheet metal work, (CC) miscellaneous personal services included in industry group 729 in the Standard Industrial Classification Manual, United States Office of Management and Budget, 1987 edition, or U.S. industry 532220,

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117 812191, 812199 or 812990 in the North American Industrial 118 Classification System United States Manual, United States Office of 119 Management and Budget, 1997 edition, exclusive of (i) services 120 rendered by massage therapists licensed pursuant to chapter 384a, and 121 (ii) services rendered by an electrologist licensed pursuant to chapter 122 388, (DD) any repair or maintenance service to any item of tangible 123 personal property including any contract of warranty or service related 124 to any such item, (EE) business analysis, management or managing 125 consulting services rendered by a general partner, or an affiliate 126 thereof, to a limited partnership, provided (i) that the general partner, 127 or an affiliate thereof, is compensated for the rendition of such services 128 other than through a distributive share of partnership profits or an 129 annual percentage of partnership capital or assets established in the 130 limited partnership's offering statement, and (ii) the general partner, or 131 an affiliate thereof, offers such services to others, including any other 132 partnership. As used in subparagraph (EE)(i) "an affiliate of a general 133 partner" means an entity which is directly or indirectly owned fifty per 134 cent or more in common with a general partner, and (FF) 135 notwithstanding the provisions of section 12-412, except subsection 136 (87) thereof, patient care services, as defined in subsection (29) of this 137 section by a hospital, except that "sale" and "selling" does not include 138 such patient care services [rendered] for which payment is received by 139 the hospital during the period commencing July 1, 2001, and ending 140 June 30, 2003; (j) the leasing or rental of tangible personal property of 141 any kind whatsoever, including, but not limited to, motor vehicles, 142 linen or towels, machinery or apparatus, office equipment and data 143 processing equipment, provided for purposes of this subdivision and 144 the application of sales and use tax to contracts of lease or rental of 145 tangible personal property, the leasing or rental of any motion picture 146 film by the owner or operator of a motion picture theater for purposes 147 of display at such theater shall not constitute a sale within the meaning 148 of this subsection; (k) the rendering of telecommunications service, as 149 defined in subsection (26) of this section, for a consideration on or after 150 January 1, 1990, exclusive of any such service rendered by an employee

for the employer of such employee, subject to the provisions related to telecommunications service in accordance with section 12-407a, as amended; (l) the rendering of community antenna television service, as defined in subsection (27) of this section, for a consideration on or after January 1, 1990, exclusive of any such service rendered by an employee for the employer of such employee; (m) the transfer for consideration of space or the right to use any space for the purpose of storage or mooring of any noncommercial vessel, exclusive of dry or wet storage or mooring of such vessel during the period commencing on the first day of November in any year to and including the thirtieth day of April of the next succeeding year; (n) the sale for consideration of naming rights to any place of amusement, entertainment or recreation within the meaning of subdivision (3) of section 12-540; (o) the transfer for consideration of a prepaid telephone calling service, as defined in subsection (34) of this section, and the recharge of a prepaid telephone calling service, provided, if the sale or recharge of a prepaid telephone calling service does not take place at the retailer's place of business and an item is shipped by the retailer to the customer, the sale or recharge shall be deemed to take place at the customer's shipping address, but, if such sale or recharge does not take place at the retailer's place of business and no item is shipped by the retailer to the customer, the sale or recharge shall be deemed to take place at the customer's billing address or the location associated with the customer's mobile telephone number. Wherever in this chapter reference is made to the sale of tangible personal property or services, it shall be construed to include sales described in this subsection, except as may be specifically provided to the contrary.

- Sec. 2. Subdivision (1) of section 12-408 of the general statutes, as amended by section 3 of public act 01-6 of the June special session, is repealed and the following is substituted in lieu thereof (*Effective from passage*):
- (1) For the privilege of making any sales, as defined in subdivision (2) of section 12-407, as amended by this act, at retail, in this state for a

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consideration, a tax is hereby imposed on all retailers at the rate of six per cent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail or from the rendering of any services constituting a sale in accordance with subdivision (2) of section 12-407, as amended by this act, except, in lieu of said rate of six per cent, (A) at a rate of twelve per cent with respect to each transfer of occupancy, from the total amount of rent received for such occupancy of any room or rooms in a hotel or lodging house for the first period not exceeding thirty consecutive calendar days, (B) with respect to the sale of a motor vehicle to any individual who is a member of the armed forces of the United States and is on full-time active duty in Connecticut and who is considered, under 50 App USC 574, a resident of another state, or to any such individual and the spouse thereof, at a rate of four and one-half per cent of the gross receipts of any retailer from such sales, provided such retailer requires and maintains a declaration by such individual, prescribed as to form by the commissioner and bearing notice to the effect that false statements made in such declaration are punishable, or other evidence, satisfactory to the commissioner, concerning the purchaser's state of residence under 50 App USC 574, (C) (i) with respect to the sales of computer and data processing services occurring on or after July 1, 1997, and prior to July 1, 1998, at the rate of five per cent, on or after July 1, 1998, and prior to July 1, 1999, at the rate of four per cent, on or after July 1, 1999, and prior to July 1, 2000, at the rate of three per cent, on or after July 1, 2000, and prior to July 1, 2001, at the rate of two per cent, on or after July 1, 2001, and prior to July 1, 2002, at the rate of one per cent and on and after July 1, 2002, such services shall be exempt from such tax, (ii) with respect to sales of Internet access services, on and after July 1, 2001, such services shall be exempt from such tax, (D) with respect to the sales of labor that is otherwise taxable under subdivision (c) or (g) of subsection (2) of section 12-407, as amended by this act, on existing vessels and repair or maintenance services on vessels occurring on and after July 1, 1999, such services shall be exempt from such tax, (E) with respect to sales of the renovation and repair services of paving of any

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sort, painting or staining, wallpapering, roofing, siding and exterior sheet metal work, to other than industrial, commercial or incomeproducing real property, occurring on or after July 1, 1999, and prior to July 1, 2000, at the rate of four per cent, with respect to such sales occurring on or after July 1, 2000, but prior to July 1, 2001, at the rate of two per cent, and on and after July 1, 2001, sales of such renovation and repair services shall be exempt from such tax, and (F) with respect to patient care services [occurring] for which payment is received by the hospital on or after July 1, 1999, and prior to July 1, 2001, and with respect to such services [occurring] for which payment is received by the hospital on or after July 1, 2003, at the rate of five and three-fourths per cent. The rate of tax imposed by this chapter shall be applicable to all retail sales upon the effective date of such rate, except that a new rate which represents an increase in the rate applicable to the sale shall not apply to any sales transaction wherein a binding sales contract without an escalator clause has been entered into prior to the effective date of the new rate and delivery is made within ninety days after the effective date of the new rate. For the purposes of payment of the tax imposed under this section, any retailer of services taxable under subdivision (2)(i) of section 12-407, as amended by this act, who computes taxable income, for purposes of taxation under the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, on an accounting basis which recognizes only cash or other valuable consideration actually received as income and who is liable for such tax only due to the rendering of such services may make payments related to such tax for the period during which such income is received, without penalty or interest, without regard to when such service is rendered.

Sec. 3. Subdivision (1) of section 12-411 of the general statutes, as amended by sections 2 and 65 of public act 01-6 of the June special session, is repealed and the following is substituted in lieu thereof (*Effective from passage*):

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(1) An excise tax is hereby imposed on the storage, acceptance, consumption or any other use in this state of tangible personal property purchased from any retailer for storage, acceptance, consumption or any other use in this state, the acceptance or receipt of any services constituting a sale in accordance with subdivision (2) of section 12-407, as amended by this act, purchased from any retailer for consumption or use in this state, or the storage, acceptance, consumption or any other use in this state of tangible personal property which has been manufactured, fabricated, assembled or processed from materials by a person, either within or without this state, for storage, acceptance, consumption or any other use by such person in this state, to be measured by the sales price of materials, at the rate of six per cent of the sales price of such property or services, except, in lieu of said rate of six per cent, (A) at a rate of twelve per cent of the rent paid for occupancy of any room or rooms in a hotel or lodging house for the first period of not exceeding thirty consecutive calendar days, (B) with respect to the storage, acceptance, consumption or use in this state of a motor vehicle purchased from any retailer for storage, acceptance, consumption or use in this state by any individual who is a member of the armed forces of the United States and is on full-time active duty in Connecticut and who is considered, under 50 App USC 574, a resident of another state, or to any such individual and the spouse of such individual at a rate of four and one-half per cent of the sales price of such vehicle, provided such retailer requires and maintains a declaration by such individual, prescribed as to form by the commissioner and bearing notice to the effect that false statements made in such declaration are punishable, or other evidence, satisfactory to the commissioner, concerning the purchaser's state of residence under 50 App USC 574, (C) with respect to the acceptance or receipt in this state of labor that is otherwise taxable under subdivision (c) or (g) of subsection (2) of section 12-407, as amended by this act, on existing vessels and repair or maintenance services on vessels occurring on and after July 1, 1999, such services shall be exempt from such tax, (D) (i) with respect to the acceptance or receipt in this state of

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computer and data processing services purchased from any retailer for consumption or use in this state occurring on or after July 1, 1997, and prior to July 1, 1998, at the rate of five per cent of such services, on or after July 1, 1998, and prior to July 1, 1999, at the rate of four per cent of such services, on or after July 1, 1999, and prior to July 1, 2000, at the rate of three per cent of such services, on or after July 1, 2000, and prior to July 1, 2001, at the rate of two per cent of such services, on and after July 1, 2001, and prior to July 1, 2002, at the rate of one per cent of such services and on and after July 1, 2002, such services shall be exempt from such tax, and (ii) with respect to the acceptance or receipt in this state of Internet access services, on or after July 1, 2001, such services shall be exempt from tax, (E) with respect to the acceptance or receipt in this state of patient care services purchased from any retailer for consumption or use in this state [occurring] for which payment is received by the hospital on or after July 1, 1999, and prior to July 1, 2001, and with respect to acceptance or receipt in this state of such services [occurring] for which payment is received by the hospital on or after July 1, 2003, at the rate of five and three-fourths per cent, and (F) with respect to acceptance of the renovation and repair services of paving of any sort, painting or staining, wallpapering, roofing, siding and exterior sheet metal work, to other than industrial, commercial or income-producing real property, occurring on or after July 1, 1999, and prior to July 1, 2000, at the rate of four per cent, with respect to such sales occurring on or after July 1, 2000, and prior to July 1, 2001, at the rate of two per cent, and on and after July 1, 2001, sales of such renovation and repair services shall be exempt from such tax.

- Sec. 4. Section 12-202b of the general statutes, as amended by section 4 of public act 01-6 of the June special session, is repealed and the following is substituted in lieu thereof (*Effective from passage and applicable to income years commencing on or after January 1*, 2001):
- (a) For <u>the</u> income [years] <u>year</u> commencing [on or after] January 1, 2000, there shall be allowed as a credit against the tax imposed by section 12-202a an amount as calculated pursuant to subsection (b) of

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- 318 this section.
- 319 (b) [(1)] The amount of credit allowed [in any income year
- 320 commencing prior to January 1, 2001,] shall be equal to fifty-five
- 321 dollars multiplied by the sum of the number of persons provided
- 322 health care coverage by the taxpayer under the HUSKY Plan, Part A,
- 323 HUSKY Plan, Part B or the HUSKY Plus programs, each as defined in
- section 17b-290, on the first day of each month of the income year for
- which the credit is taken, divided by twelve.
- [(2) The amount of credit allowed in any income year commencing
- on or after January 1, 2001, shall be equal to seventy-three dollars and
- 328 fifty cents multiplied by the sum of the number of persons provided
- 329 health care coverage by the taxpayer under the HUSKY Plan, Part A,
- 330 HUSKY Plan, Part B or the HUSKY Plus programs, each as defined in
- section 17b-290, on the first day of each month of the income year for
- 332 which the credit is taken, divided by twelve.]
- 333 (c) The credit allowed under this section shall not be taken into
- 334 account for purposes of the installment payments due under section
- 335 12-204c but shall be taken into account in the annual return required
- 336 under section 12-205.
- (d) The amount of credit allowed any taxpayer under this section for
- any income year may not exceed the amount of tax due from such
- taxpayer under section 12-202a with respect to such income year.
- Sec. 5. (Effective from passage) (a) Any company filing the annual
- 341 return required under section 12-205 of the general statutes for the
- income year commencing January 1, 2001, that, except for the repeal of
- 343 the tax credit with respect to income years commencing on or after
- January 1, 2001, would have been entitled to take a credit under section
- 345 12-202b of the general statutes, shall be entitled for the fiscal year
- ending June 30, 2002, to a supplemental payment. The amount of the
- 347 supplemental payment shall be equal to the amount of the credit the
- 348 company would have received, provided such company, together with

the final return, pays the full amount of the tax that is due and provides to the commissioner the computation of the amount of credit that could have been taken.

(b) For the fiscal year ending June 30, 2003, any company that received a payment under subsection (a) of this section shall be entitled to an additional supplemental payment equal to thirty-six dollars and seventy-five cents multiplied by the sum of the number of persons provided health care coverage by the taxpayer under the HUSKY Plan, Part A, HUSKY Plan, Part B or the HUSKY Plus programs, each as defined in section 17b-290 of the general statutes, on the first day of each month, January to June, inclusive, of 2002, divided by six.

This act shall take effect as follows:	
Section 1	from passage
Sec. 2	from passage
Sec. 3	from passage
Sec. 4	from passage and applicable to income years commencing on or after January 1, 2001
Sec. 5	from passage

Statement of Purpose:

To implement the Governor's budget recommendations.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

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